

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Frederick Lynn Sellers,)	
)	
Petitioner,)	Civil Action No.: 4:04-22627-12
)	
vs.)	
)	
United States of America,)	ORDER
)	
Respondent.)	
_____)	

On October 15, 2004, pursuant to 28 U.S.C. § 2255, Frederick Lynn Sellers (“petitioner”) commenced this pro se action attacking his conviction and sentence. On December 22, 2004, the government moved for summary judgment. On December 30, 2004, the Court issued a Roseboro order advising the petitioner of summary judgment dismissal procedure. On May 13, 2005, the Court issued an order granting the government’s motion for summary judgment and dismissing the action.

On May 18, 2005, the petitioner filed a letter inquiring as to the status of his response to the government’s motion for summary judgment. Upon review, the Court has discovered that the petitioner mailed his response to the Court but it was not filed. The petitioner raises new allegations of ineffective assistance of counsel in the response. In dismissing the action, the Court did not consider these allegations. The Court finds that justice requires considering the new allegations, and to adequately do so, the Court will require trial counsel to respond to the

allegations in an affidavit.¹

Accordingly, the Court hereby vacates its order dismissing the petition and orders trial counsel to respond to the allegations within 30 days of the date of this order.

AND IT IS SO ORDERED.

A handwritten signature in black ink, reading "C. Weston Houck". The signature is written in a cursive, slightly slanted style.

**C. WESTON HOUCK
UNITED STATES DISTRICT JUDGE**

May 31, 2005
Charleston, South Carolina

¹ Two attorneys represented the petitioner during his trial.